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10/072,418	02/05/2002	Minoru Kobayashi	23484-032	2973

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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3639

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/072,418

**Applicant(s)**

KOBAYASHI, MINORU

**Examiner**

Akiba K. Robinson-Boyce

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Due to communications filed 2/5/02, the following is a non-final first office action.  
Claims 1-24 are pending in this application and have been examined on the merits.  
Claims 1-24 are rejected as follows.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of all of the claims recite the term "A dynamic fee system usable in a method". This is a relative term that renders the claim indefinite. The term "A dynamic fee system usable in a method" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because the term "A dynamic fee system usable in a method" is used, it is unclear as to whether the applicant is claiming system or method claims, thereby making all claims and the scope of the invention unclear.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5, 6, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimada et al (US 6,125,306).

As per claims 5, 24, Shimada et al discloses:

Determining the optimum vehicle inventory at each departure port, (Col. 11, lines 22-27, determining the value of pallets expected to depart at that distribution base by adding the values at the place of departure of the transport schedule table, w/ col. 1, lines 36-37, in this case, since the values at the place of departure are added, the result is an optimum result, and also, the pallets are nothing more than vehicles since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining a base fee for the use of a vehicle when the departure port is at optimum inventor/determining the fee for use of a vehicle..., (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee);

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Displaying the base fee when the number of vehicles at the departure port is at optimum inventory/displaying the fee derived..., (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed).

As per claims 6, 21, Shimada et al discloses:

Determining the optimum vehicle inventory at each destination port, (, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs); and

Determining a base fee for the use of a vehicle when the destination port is at optimum inventory/determining the fee for the use of a vehicle, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee);

Displaying the base fee when the number of vehicles at the destination port is at optimum inventory/displaying the fee derived...when the number of vehicles at a destination port is at optimum inventory/displaying the fee derived...when the number of vehicles at a destination port is at optimum inventory, (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 7-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada et al (US 6,125,306).

As per claims 1, 13, 16, 22, Shimada et al discloses:

Determining the optimum vehicle inventory at each departure port, (Col. 11, lines 22-27, determining the value of pallets expected to depart at that distribution base by adding the values at the place of departure of the transport schedule table, w/ col. 1, lines 36-37, in this case, since the values at the place of departure are added, the result is an optimum result, and also pallets are nothing more than vehicles since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining a base fee for the use of a vehicle when the departure port is at optimum inventory/determining the fee for the use of a vehicle; and, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs).

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Displaying a fee..., (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed, where the inverse relationship as discussed above is implemented into the results).

Shimada et al does not specifically disclose displaying a fee below the base when the number of vehicles at the departure port is above the optimum inventory, however, does disclose an inverse relationship concerning the number of pallets verses the forwarding costs as shown in col. 12, lines 22-24, therefore, when the optimum inventory is increased, the fee is therefore decreased.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to display a fee below the base when the number of vehicles at the departure port is above the optimum inventory with the motivation of displaying the fee below a base level for the optimum inventory available.

As per claims 2, 14, 17, 23, Shimada et al discloses:

Determining the optimum vehicle inventory at each departure port, (Col.. 11, lines 22-27, determining the value of pallets expected to depart at that distribution base by adding the values at the place of departure of the transport schedule table, w/ col. 1, lines 36-37, in this case, since the values at the place of departure are added, the result is an optimum result, and also pallets are nothing more than vehicles since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining a base fee for the use of a vehicle when the departure port is at optimum inventory/determining the fee for the use of a vehicle, , (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet

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supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs); and

Displaying a fee..., (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed, where the inverse relationship as discussed above is implemented into the results).

Shimada et al does not specifically disclose displaying a fee above the base fee/above the fee derived... when the number of vehicles at a departure port is below the optimum inventory, however, does disclose an inverse relationship concerning the number of pallets verses the forwarding costs as shown in col. 12, lines 22-24, therefore, when the optimum inventory is decreased, the fee is therefore increased.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to display a fee above the base fee when the number of vehicles at a departure port is below the optimum inventory with the motivation of displaying a fee that is above a base level for the optimum inventory available.

As per claims 3, 7, 10, 19, Shimada et al discloses:

Determining the optimum vehicle inventory at each destination port, (Col. 11, lines 16-22, shows that quantities of loaded pallets same as value at the place of arrival are added, taking this added information and further obtaining the predicted quantity of pallets expected to arrive, in this case, since the values at the place of destination are added, the result is an optimum result, and also pallets are nothing more than vehicles



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since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining a base fee for the/determining the fee for the use of a vehicle when the destination port is at optimum inventory, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs); and

Displaying a fee..., (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed, where the inverse relationship as discussed above is implemented into the results).

Shimada et al does not specifically disclose displaying a fee above the base fee when the number of vehicles at a destination port is above the optimum inventory, however, does disclose forwarding pallets in the order from a base with lower costs to a base with higher costs among bases where pallets are in excess compared with the physical distribution base where pallets are in shortage, in col. 21, line 64-Col. 22, line 2, which represents a directly proportional relationship since the amount of bases that are in excess are gradually being transported to bases with higher costs).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to display a fee above the base fee when the number of vehicles at a destination port is above the optimum inventory with the motivation of displaying a fee that directly corresponds to the optimum inventory available.

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As per claims 4, 8, 11, 20, Shimada et al discloses:

Determining the optimum vehicle inventory at each destination port, (Col. 11, lines 16-22, shows that quantities of loaded pallets same as value at the place of arrival are added, taking this added information and further obtaining the predicted quantity of pallets expected to arrive, in this case, since the values at the place of destination are added, the result is an optimum result, and also pallets are nothing more than vehicles since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining a base fee for the use of a vehicle when the destination port is at optimum inventory/determining the fee for the use of a vehicle, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs); and

Displaying a fee..., (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed, where the inverse relationship as discussed above is implemented into the results).

Shimada et al does not specifically disclose displaying a fee below the base fee/below the fee derived when the number of vehicles at a destination port is below the optimum inventory, however, does disclose forwarding pallets in the order from a base with lower costs to a base with higher costs among bases where pallets are in excess compared with the physical distribution base where pallets are in shortage, in col. 21,

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line 64-Col. 22, line 2, which represents a directly proportional relationship since the amount of bases that are in excess are gradually being transported to bases with higher costs, therefore, if the pallets are at a shortage, it would be obvious to forward pallets in the order from a base with higher costs to a base with lower costs).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to display a fee below the base fee when the number of vehicles at a destination port is below the optimum inventory with the motivation of displaying a fee that directly corresponds to the optimum inventory available.

As per claims 9, 12, Shimada et al discloses:

Determining the optimum vehicle inventory at each destination port, (, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee. Also shows that the number of pallets have an inverse relationship with the forwarding costs); and

Determining the fee for the use of a vehicle, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee);

Displaying the fee derived...when the number of vehicles at a destination port is at optimum inventory/displaying the fee derived...when the number of vehicles at a destination port is at optimum inventory, (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed).

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As per claims 15, 18, Shimada et al discloses:

Determining the optimum vehicle inventory at each departure port, (Col. 11, lines 22-27, determining the value of pallets expected to depart at that distribution base by adding the values at the place of departure of the transport schedule table, w/ col. 1, lines 36-37, in this case, since the values at the place of departure are added, the result is an optimum result, and also, the pallets are nothing more than vehicles since it is shown that pallets are transport containers in a wide area distribution in col. 1, lines 36-37);

Determining the fee for the use of a vehicle, (Col. 12, lines 22-28, shows optimum pallets to minimize forwarding costs based on the results of the pallet supply and demand prediction, in this case, the costs are minimized to a level according to a specific set of results and therefore represents a base fee);

Displaying the fee derived...when the number of vehicles at the departure port is at optimum inventory, (Col. 12, lines 28-37, results [including optimized pallets at a minimized cost] is displayed).

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

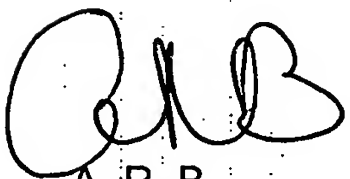
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-746-7238

[After final communications, labeled "Box AF"], 703-746-7239 [Official Communications],  
and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-305-  
3900.

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by 'R' and 'B'.

A. R. B.

November 10, 2005